



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

July 10, 2018

David Slapin
President
Twenty-Five Commerce, Inc. d/b/a Crystal Ice
25 Commerce Street
Norwalk, CT 06850

RE: Twenty-Five Commerce, Inc. d/b/a Crystal Ice: Compliance with Chemical Release and Inventory Reporting Requirements

Dear Mr. Slapin:

This letter relates to the United States Environmental Protection Agency's efforts to address violations of chemical reporting and accident prevention requirements. As you are aware from several communications with Environmental Protection Agency ("EPA") staff, Twenty-Five Commerce, Inc. d/b/a Crystal Ice ("Crystal Ice") has violated several such requirements at its ice-making facility in Norwalk, Connecticut -- all related to the company's use of anhydrous ammonia as a refrigerant. Specifically, the company failed to comply with:

- Section 112(r)(1) of the Clean Air Act, 42 U.S.C. § 7412(r)(1), otherwise known as "the General Duty Clause";
- Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9603(a), for failure to timely report a release of ammonia from the facility; and
- Section 312 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11022, for failure to file annual chemical inventory reports.

We thank you for filing the chemical release and inventory reports following EPA's inspection and for addressing Crystal Ice's compliance with the General Duty Clause by making multiple safety improvements to the facility.

Given the seriousness of the violations, EPA believes that a penalty is appropriate. Given Crystal Ice's limited cash flow and the death of EPA's primary inspector, EPA is choosing to seek penalties only for the CERCLA and EPCRA violations at this time. As further explained below, EPA has enclosed a draft settlement document, which would resolve Crystal Ice's civil penalty liability for the CERCLA and EPCRA violations. To address the General Duty Clause violations, EPA proposes to enter into a separate, non-penalty order with Crystal Ice, which would require Crystal Ice to reassess the hazards of its ammonia refrigeration system using standard industry checklists. This would ensure that Crystal Ice has reviewed all the likely

hazards presented by its ammonia refrigeration system at this facility and any other ice-making facilities that Crystal Ice has acquired over the last few years.¹ Please let us know if Crystal Ice is amenable to this approach, and EPA will send you a draft administrative order on consent for your consideration. Also, please fill out the enclosed Information Request regarding the other ice-making businesses that Crystal Ice recently purchased so that EPA can better assess what facilities any General Duty Clause order would address. Meanwhile, more information about the CERCLA and EPCRA penalty offer is below.

EPA has the authority to pursue administrative civil penalties for violations of CERCLA and EPCRA of up to \$55,907 per day for each violation. Prior to issuance of formal enforcement action, we are offering Crystal Ice the opportunity to discuss with EPA representatives the possibility of resolving this penalty action informally and expeditiously. If the parties are able to reach agreement on a settlement, EPA will file a consent agreement and final order that will simultaneously commence and conclude an action for the identified violations. To that end, enclosed is a draft Consent Agreement and Final Order. The enclosed document also explains the violations in more detail.

Using the enclosed penalty policy, EPA has calculated a proposed penalty. The worksheet enclosed as Attachment 2 explains how the penalty was derived. The proposed penalty does not exceed what Crystal Ice can pay, according to the EPA financial analyst who reviewed Crystal Ice's financial documentation. As you know, EPA does not impose a penalty that is beyond a company's ability to pay, but the company must substantiate its inability to pay.

If the parties cannot settle the EPCRA and CERCLA violations in principle within 45 days of receipt of this letter, the opportunity to engage in pre-filing negotiations will expire, and EPA will proceed with a formal enforcement action. Should EPA need to proceed with a formal enforcement action, it is likely that EPA will add one or more General Duty Clause counts to the EPCRA/CERCLA case. If Crystal Ice would like to resolve this matter expeditiously and avoid a more formal enforcement process, please contact Catherine Smith at (617) 918-1777 or smith.catherine@epa.gov within fourteen (10) days of receipt of this letter.

Please note that 40 C.F.R. § 22.8 prohibits the unilateral discussion of the merits of this case with the Regional Administrator or the Presiding Officer. Please also be aware that it is the practice of this office to issue a press release upon the filing of administrative complaints and consent agreements. EPA looks forward to resolving this matter with Crystal Ice.

Sincerely,



Tim Conway, Acting Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region 1 – New England

¹ Crystal Ice submitted a process hazard review following EPA's inspection, but it assessed only a few of the hazards that companies typically assess when reviewing the hazards of their ammonia refrigeration systems. Crystal Ice is free to use another methodology (such as a "What-if" methodology) to re-assess the hazards, but the checklist approach would likely be the least expensive and burdensome.

cc: Drew Meyer, EPA
Catherine Smith, EPA

Enclosures:

1. Consent Agreement and Final Order
2. Penalty Calculation Worksheet
3. Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act
4. Consolidated Rules of Practice (40 C.F.R. Part 22)
5. Information Request Re. Other Ice-Making Businesses Purchased by Crystal Ice
6. Small Business Resources Information Sheet